

# Your Rights at the Airport

## 1. TSA “screeners” are not law enforcement officers, and cannot legally arrest or detain you.

Despite wearing police-type uniforms and calling themselves “officers”, TSA staff who question and search you at airports have no police powers and no immunity from any state or local laws. At some airports, notably San Francisco (SFO) and Kansas City (MCI), they aren't government employees at all, but rent-a-cops employed by a private contractor. In either case, they cannot legally arrest or detain you (except as a citizen's arrest, the same way you can arrest them if they commit assault or battery). All they can do is call the local police.

## 2. You have the 1<sup>st</sup> Amendment right to film, photograph, and record what happens in public areas of airports, including your interactions with screeners and other TSA staff.

Photography and recording in airports and at TSA checkpoints violates no Federal law or TSA regulation. Any state or local laws that purport to prohibit this are likely to be unconstitutional. You have the right, for your own protection, to document what happens to you and what is done to you.

## 3. You have the right not to be assaulted or battered (sexually or otherwise), falsely arrested, unlawfully detained, or kidnapped.

You should consult the applicable laws, including local laws, and/or an attorney if you plan to do any of these things, but you have the right to make a criminal complaint and/or a citizen's arrest of someone who assaults you, and/or to sue that person for damages.

## 4. You have the right to freedom of movement and to travel by air.

Your freedom of movement is guaranteed by the First Amendment (“the right of the people... peaceably to assemble”) and by Article 12 of the International Covenant on Civil and Political Rights, a human rights treaty to which the U.S. is a party: “Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. Everyone shall be free to leave any country, including his own... No one shall be arbitrarily deprived of the right to enter his own country.”

Airlines are common carriers. The Airline

Deregulation Act of 1978 guarantees the “public right of freedom of transit”. TSA is required by Federal law (49 USC § 40101) to consider this right when it issues regulations.

## 5. If an airline cancels your reservation or refuses to transport you, you may be entitled to collect damages.

Additionally, you can request that the U.S. Department of Transportation (and, if you were denied passage to the United States from another country, that country's authorities) investigate and fine or impose other sanctions on the airline.

## 6. Under most airlines' conditions of carriage, you have the right to a full and unconditional refund if the airline refuses to transport you because you won't show ID or won't “consent” to whatever they want to do to you in the name of “screening”.

If so, and if the airline refuses to give you a full refund, you can sue them for damages and request that the U.S. Department of Transportation investigate and fine them.

To opt-out and get a refund: First, consult the provisions of the airline's "Conditions of Carriage" governing refusal to transport and involuntary refunds. Second, show up at the airport and present yourself for check-in on time.

Third, try to document that the airline (not TSA or contractors) refused to transport you.

If you check in first, then later refuse to be X-rayed or groped, or to show ID, you'll likely get the runaround from TSA and the airline, so check in in-person at the airport and tell the airline *then* that you don't consent to a virtual strip-search or groping (or that you won't show ID). When the ticket counter clerk says, “Then you can't fly,” demand an immediate, full, unconditional refund. If they refuse, get written confirmation of all the above to document your eligibility for refund. Don't leave the counter without either a full refund or a written statement, on airline letterhead, signed legibly, preferably by the station manager.

Say something like, “I insist on either a full and immediate refund, or a letter signed by the station manager confirming that I presented myself for check-in on time, that you refused to transport me because I wouldn't show ID or ‘consent’ to ‘screening’, that I requested a refund, and that you have refused to provide me with a full refund. I need this to document my eligibility for a refund.”

This information was adapted from The Identity Project's <<http://papersplease.org/wp/2010/11/23/what-you-need-to-know-about-your-rights-at-the-airport/>>. (20101124)

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